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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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22913	7590	02/02/2009		
Workman Nydegger 1000 Eagle Gate Tower 60 East South Temple Salt Lake City, UT 84111			EXAMINER	
			WORJLOH, JALATIE	
			ART UNIT	PAPER NUMBER
			3685	
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			02/02/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/988,811

Applicant(s)

STEELE ET AL.

Examiner

Jalatee Worjloh

Art Unit

3685

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 60-87 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 60-87 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This Office Action is responsive to the amendment filed July 28, 2008.
2. Claims 60-87 are pending.

Response to Arguments

3. Applicant's arguments with respect to claim 60 have been considered but are moot in view of the new ground(s) of rejection.
4. Applicant's arguments with respect to claim 62 have been fully considered but they are not persuasive. Applicants argue that Walker does not teach communicating the consumer preferences to the vendor server. However, the Examiner respectfully disagrees. Walker teaches providing unlock codes to the intermediary, which is part of the consumer preference (see fig. 13 & paragraph [0104]).

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claims 60-87 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
7. Claims 60, 70, and 77 recite "accessing the information account to retrieve a payment identifier and providing the payment identifier to the vendor server to complete the transaction";

however, it is unclear who accesses the information account. Is it the client device or the vendor?

8. Claim 63 recites the limitation "the vendor database" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 60-87 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Publication No. 2006/0229944 to Walker et al. ("Walker") in view of US Patent No. 6327578 to Linchan.

Referring to claim 60, Walker discloses receiving an instruction via a thin client device to perform a transaction (see paragraphs [0130] – [0143] and Fig. 4, method performed by a user device), interacting with a vendor server to request the transaction (see paragraphs [0064] - [0094] – merchant/retailer interaction via identifier paragraphs [0108] – [0117]). Walker does not expressly disclose receiving authorization at a central depository from the thin client device for the vendor server to access an information account associated with a consumer and maintained in a central data repository and accessible via a distributed network, the information account comprising a plurality of accessible and modifiable consumer information elements and accessing the information account to retrieve a payment identifier and providing the payment

identifier to the vendor server to complete the transaction. However, the missing elements are taught by Linehan (see col. 4, lines 10-64). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the method disclose by Walker to include the features of Linehan. One of ordinary skill in the art would have been motivated to do this it ensures that only authorized individuals have access to the account.

Applicant is reminded that functional recitation(s) using the word “for” or other functional language (e.g. “to request”, “to access”, “to retrieve”) have been considered but given less patentable weight because they fail to add any steps and are thereby regarded as intended use language. A recitation of the intended use of the claimed invention must result in additional steps. See *Bristol-Myers Squibb Co. v. Ben Venue Laboratories, Inc.*, 246 F.3d 1368, 1375-76, 58 USPQ2d 1508, 1513 (Fed. Cir. 2001) (Where the language in a method claim states only a purpose and intended result, the expression does not result in a manipulative difference in the steps of the claim.).

Referring to claim 61, Walker discloses receiving consumer preferences for the transaction from the thin client device, and wherein interacting with the vendor server to request the transaction comprises communicating the consumer preferences to the vendor server (see paragraphs [0099] –[0108], [0133], [0162] – profile/demographic information).

Referring to claim 62, Walker discloses retrieving consumer preferences for the transaction from the information account; and wherein interacting with the vendor server to request the transaction on comprises communicating the consumer preferences to the vendor server (0099-108, 133, 162, profile/demographic information).

Referring to claim 63, Walker discloses the method wherein the instruction from the thin client device further comprises authentication information; and wherein the method further comprises the step of authenticating the consumer based on the authentication information prior to interacting with the vendor database on behalf of the consumer (0117, 157, authentication or verification of the user).

Referring to claim 64, Walker discloses wherein the authentication information comprises consumer authentication information; and wherein authenticating the consumer comprises the verifying the consumer authentication information (0117, 157, authentication or verification of the user).

Referring to claim 65, Walker discloses wherein the authentication information comprises an equipment identifier that uniquely identifies the thin client device, and wherein authenticating the consumer comprises the step of verifying the equipment identifier (0157, device identifier).

Referring to claim 66, Walker discloses wherein the transaction involves a vendor providing a product or service to the consumer (0162, product or service).

Referring to claim 67, Walker discloses the method wherein the transaction involves receiving at least one data file from the vendor server and storing the data file in the information account (see paragraph [0175] - storing information about outcomes generated by the controller).

Referring to claim 68, Walker discloses maintaining the information account in a central data repository accessible via the distributed network on behalf of the consumer (see paragraphs [0043] -[0059], central database/source, 0098-102, 141, 203, profile/account information creation and controller/identifier entered and modifiable by user).

Referring to claim 69, Walker discloses receiving an acknowledgement from the vendor server indicating that the transaction has been completed and storing the acknowledgment in the information account (see paragraphs [0127] -[146] - criteria met/determine whether transaction satisfied and completed).

Claims 70-87 are rejected on the same rationale as claims 60-69 above.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jalatee Worjloh whose telephone number is 571-272-6714. The examiner can normally be reached on Monday - Friday 10:00 - 6:30 for regular communications and 571-273-6714 for Non-Official /Draft.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Calvin Hewitt II can be reached on 571-272-6709. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jalatee Worjloh/
Primary Examiner, Art Unit 3685